

BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for)	
Certification for)	Docket No.
The Palen Solar)	09-AFC-7
Power Project)	
)	
_____)	

CALIFORNIA ENERGY COMMISSION

HEARING ROOM B

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, OCTOBER 13, 2010

10:05 A.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

EHLERT BUSINESS GROUP (916) 851-5976

APPEARANCES

COMMITTEE MEMBERS PRESENT

Karen Douglas, Chair, Associate Member

Robert Weisenmiller, Commissioner, Presiding Member

HEARING OFFICER AND ADVISERS

Raoul Renaud, Hearing Officer

Eileen Allen, Advisor

STAFF AND CONSULTANTS PRESENT

Lisa DeCarlo, Staff Counsel

Alvin Greenberg, Ph.D.

Alan Solomon, Project Manager

APPLICANT

Palen II

Scott Galati
Robert Gladden

Solar Millenium, LLC

Alice Harron
Michael Cressner

INTERVENORS

Basin and Range Watch

Laura Cunningham

ALSO PRESENT

Dale Everson, Riverside County Fire Department

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1 PROCEEDINGS

2 HEARING OFFICER RENAUD: Welcome to the first
3 session of evidentiary hearings for the Palen Solar Power
4 project here at the California Energy Commission, docket
5 number 09AFC7.

6 I'm Raoul Renaud. I'm the Hearing Officer
7 assigned by the Committee to oversee the evidentiary
8 hearing process in this matter.

9 To my immediate right is Commissioner Robert
10 Weisenmiller, who is the presiding member of the
11 Committee. And to his right is his advisor, Eileen Allen.
12 To my left is Chair Karen Douglas of the Energy
13 Commission, who is the Associate Member of this Committee.

14 Before we proceed further, I think we'll take
15 introductions from the parties in the room. We'll start
16 with the applicant.

17 MR. GALATI: Scott Galati representing Palen
18 Solar 1.

19 MS. HARRON: Alice Harron, Palen Solar 1.

20 MR. CRESSNER: Mike Cressner, Palen Solar 1.

21 HEARING OFFICER RENAUD: And staff?

22 STAFF COUNSEL DE CARLO: Good morning. Lisa
23 DeCarlo, Energy Commission Staff Counsel.

24 To my right, I have Alan Solomon, Energy
25 Commission Project Manager.

1 To my left, Dr. Alvin Greenberg, technical
2 expert.

3 We also in the audience have experts in our
4 cultural resources section.

5 HEARING OFFICER RENAUD: Good. Thank you.

6 In case we also have parties who are intervenors,
7 let me call the roll and see if the intervenors are
8 participating today.

9 Let me start with Basin and Range Watch. Are you
10 participating today?

11 MS. CUNNINGHAM: Yeah. Laura Cunningham, Basin
12 and Range Watch.

13 HEARING OFFICER RENAUD: Are you okay? You can
14 hear us fine?

15 MS. CUNNINGHAM: Yes. Very good. Thank you.

16 HEARING OFFICER RENAUD: We can hear you fine,
17 too. That's good. All right.

18 Center for Biological Diversity? All right. We
19 weren't really expecting them. They will be participating
20 at the October 27th session.

21 And CARE, Californians for Renewable Energy? No
22 one there. All right.

23 CURE? Anybody from CURE? No. All right.

24 Very good. Few introductory remarks and
25 housekeeping issues. The evidentiary hearing is the time

1 when the Committee makes an evidentiary record upon which
2 it will base its decision on the application for
3 certification. This is a formal evidentiary process. We
4 follow the rules of evidence under California law. And we
5 receive into evidence the exhibits and testimony of
6 parties. The parties also have the right to cross-examine
7 the witnesses of other parties.

8 Where the parties have determined that they are
9 in agreement with one another, we often take the evidence
10 and testimony by stipulation, which means simply that the
11 parties agree that the state of the facts and the
12 opinions is agreed upon and the Committee then would
13 accept that agreement into evidence.

14 The hearing is being recorded today and will be
15 transcribed into a written book that will be able to be
16 read by anyone who looks at our website. And it would
17 also be available in print form for those that request it.
18 For that reason, we need to ask that everyone who speaks
19 today speak clearly and distinctly and not over one
20 another so that we get a very clear record and also to
21 identify themselves before speaking.

22 We've received exhibits from the parties, exhibit
23 lists, and it was determined last week at the pre-hearing
24 conference that the topics we will cover all the
25 evidentiary topics today except for air quality,

1 alternatives, biological resources, and soil and water
2 resources. Those topics will be covered at the October
3 27th session. And it is those topics that CBD, Center for
4 Biological Diversity, wishes to present evidence on. So
5 that's why we're postponing those topics until then. All
6 the other topics will be covered today.

7 And there are any number of ways to proceed. I
8 understand there are stipulations among the parties with
9 respect to most, if not all, of the topics. Perhaps we
10 should hear from the applicant first about that.

11 MR. GALATI: Yes. I'm pleased to report that for
12 today's subject matter hearing we believe we're in
13 100 percent agreement with staff.

14 And I think there are two housekeeping matters.
15 One of them is we reached an agreement on the language of
16 condition of certification Trans 6. So I have an
17 additional exhibit to hand out. The parties of Trans 6 --
18 and I'll give it to the Committee when it's time. We
19 also -- staff filed rebuttal testimony and cultural
20 resources where we are in agreement with the modifications
21 to the conditions in that. So we can handle that as -- so
22 I think today my recommendation would be -- and I defer to
23 Ms. DeCarlo -- but I think we should enter exhibits into
24 the record today and then we can speak to them properly by
25 topic area. And we can just clarify for the Committee,

1 for example, we have some changes that we proposed in a
2 couple of the technical areas that reflected what we
3 discussed in as our workshop. And so staff hasn't had an
4 opportunity to say for the record that they're in
5 agreement with those. So it makes sense just to go
6 through the topic areas and just get agreement from the
7 parties.

8 The other thing is I would ask the Committee to
9 indulge us and let all the exhibits in, even though some
10 of the exhibits that I have on my list deal with air
11 quality and bio, because I can't separate them. So, for
12 example, Exhibit 4 which is responses to data responses or
13 data adequacy, it has bio in it. But I'd like the
14 Committee to have all the uncontested topics in the record
15 so they can continue to work on the PMPD in those areas so
16 that they don't have to wait. So I would propose that
17 subject to objection later that they be at least
18 conditionally admitted.

19 HEARING OFFICER RENAUD: Yes. I've been thinking
20 about that letter idea myself, and I think since CBD has
21 indicated that they wish to address the four particular
22 topics on October 27th, we have to give them the right to
23 object to the admission of any exhibits on those topics.
24 So we would make admission today conditional, subject to
25 their right to object.

1 Let's hear from staff anything about the general
2 housekeeping and order proceedings today?

3 STAFF COUNSEL DE CARLO: Yes. Staff agrees with
4 the approach proposed by Mr. Galati. We can go through
5 the individual topic areas where the applicant identified
6 additional changes in their main testimony and we can
7 voice our agreement with those changes.

8 HEARING OFFICER RENAUD: Very good. And let me
9 hear from Basin and Range Watch. Would you care to add to
10 the discussion here about the evidentiary proceedings
11 today?

12 MS. CUNNINGHAM: That sounds fine to us. Thank
13 you.

14 HEARING OFFICER RENAUD: All right. Thank you.

15 Now, we've received exhibit lists from the
16 applicant and the staff. Applicant, appears you have 57
17 exhibits, Exhibits 1 through 57. And staff, you have two
18 or three? I am not sure.

19 STAFF COUNSEL DE CARLO: We have three now. We
20 added -- on October 11th, we filed rebuttal testimony. So
21 that's marked as Exhibit 302.

22 HEARING OFFICER RENAUD: All right. Very good.
23 Well, there's really two ways to proceed with admission of
24 evidence at this point. One is to -- would be to move the
25 admission of each party's exhibits in bulk as shown on the

1 exhibit list. The other would be to go through topic by
2 topic. Personally, if we could do it in bulk, I prefer
3 that. There's -- otherwise, we need to laboriously go
4 through each topic and call out the exhibit numbers. Is
5 applicant amenable to that?

6 MR. GALATI: Yes. I'm prepared to move Exhibits
7 1 through 57 subject to Basin and Range Watch -- excuse
8 me -- CBD objection in the area of soil/water,
9 alternatives, air quality, and bio.

10 HEARING OFFICER RENAUD: And staff, how do you
11 feel about that?

12 STAFF COUNSEL DE CARLO: Staff agrees with that.
13 We looked at the applicant's testimony and agree with all
14 their proposed changes in all the areas they identified,
15 except for traffic and transportation. And the applicant
16 has proposed Exhibit 58 and staff agrees with Exhibit 58
17 which is the new language for Trans 6. With that, staff
18 agrees to the introduction of all of the testimony.

19 HEARING OFFICER RENAUD: Mr. Galati.

20 MR. GALATI: Right. I'll hand out Exhibit 58 to
21 the Committee now, and I'll ask that that be added to my
22 motion.

23 HEARING OFFICER RENAUD: Hold off on that for
24 now. I'm going to check with the parties.

25 Basin and Range Watch, would you have any concern

1 with our doing a bulk admission of exhibits rather than
2 going topic by topic?

3 MS. CUNNINGHAM: No concern. That's fine.

4 HEARING OFFICER RENAUD: All right. Have we been
5 joined by any of the parties? I see we do have an
6 additional caller.

7 CARE, are you there? All right.

8 CBD? No. All right.

9 CURE? All right. CURE actually has issued a
10 statement indicating they have resolved all their
11 environmental concerns and will not be proceeding further,
12 although they are technically still an intervenor and
13 could participate if they wanted to.

14 All right. Well, I think we can then go ahead.
15 Let's start with the applicant since it's your burden.
16 Would you care to move -- make a motion with respect to
17 your exhibits?

18 MR. GALATI: I would like to move Exhibits 1
19 through 58 I'm now handing out to the Committee. The
20 parties have received 58, which is a revision to Trans 6.
21 Just to make it clear for the record, Trans 6 in our
22 testimony is disputed. Staff had rebuttal testimony and
23 our Trans 6 is revisions to their rebuttal testimony. And
24 what you have in front of you is a clean version and then
25 a stapled red lined version so you can see the changes

1 that were made if you're interested to staff's rebuttal
2 versus of Trans 6.

3 With that, we no longer have an objection to
4 traffic and transportation in its entirety with that
5 addition. So I'd like to move 1 through 58 into the
6 record.

7 HEARING OFFICER RENAUD: Very good. So we'll
8 mark as 58 the version of Trans 6 that you've just
9 distributed.

10 Is there any objection from staff to Mr. Galati's
11 motion?

12 STAFF COUNSEL DE CARLO: No objection.

13 HEARING OFFICER RENAUD: Thank you. Basin and
14 Range Watch?

15 MS. CUNNINGHAM: No.

16 HEARING OFFICER RENAUD: No objection?

17 MS. CUNNINGHAM: No objection.

18 HEARING OFFICER RENAUD: All right. Good. Thank
19 you.

20 (Thereupon the above-referenced documents
21 were received into evidence.)

22 HEARING OFFICER RENAUD: Any other party joined
23 us yet?

24 All right then, the applicant's motion is
25 granted. These exhibits will be admitted into evidence.

1 Let's proceed to the staff. You have a good 300,
2 which is part one of the RSA; Exhibit 301 which is part
3 two; and Exhibit 302 which is your rebuttal testimony.

4 STAFF COUNSEL DE CARLO: Yes. Staff moves --
5 requests that those three exhibits be moved into the
6 record with the exception of those involving biological
7 resources, soil and water, resources, air quality, and
8 alternatives.

9 HEARING OFFICER RENAUD: All right. Very good.
10 Any objection from the applicant?

11 MR. GALATI: No objection.

12 HEARING OFFICER RENAUD: All right. Any
13 objection from Basin and Range Watch?

14 MS. CUNNINGHAM: No objection.

15 HEARING OFFICER RENAUD: All right.

16 Has CARE joined us?

17 CURE?

18 CBD? All right then.

19 The motion is unopposed and will therefore be
20 granted. The staff Exhibits 300, 301, 302 will be
21 admitted into evidence.

22 (Thereupon the above-referenced documents
23 were received into evidence.)

24 HEARING OFFICER RENAUD: Now, as to cultural, do
25 we need to discuss that or has it been made clear in the

1 documents what the agreements were? I noticed there were
2 a number of questions about conditions of certification.
3 Do we have now a version of that that is agreed upon?

4 MR. GALATI: That's correct. The applicant
5 agrees to staff's modifications to the cultural conditions
6 as they show up in the rebuttal testimony, Exhibit 302.

7 HEARING OFFICER RENAUD: All right. Is that
8 staff?

9 STAFF COUNSEL DE CARLO: Yes.

10 HEARING OFFICER RENAUD: All right. Great.

11 MR. GALATI: I have two housekeeping matters that
12 I wanted to inform the Committee.

13 HEARING OFFICER RENAUD: Okay.

14 MR. GALATI: First, we wanted to make sure that
15 the Committee was aware in the project description in our
16 testimony we included some changes and some modifications
17 that we want to make sure get into the PMPD. So when you
18 write the PMPD and project description if you would
19 consider our testimony as well, there are pieces of that
20 that need to be reflected that are minor modifications and
21 changes we just didn't want to have an amendment.

22 In addition, something that is not in our
23 testimony but we would like to request and that is that
24 the modifications that were made both in the Genesis final
25 decision and the Blythe final decision on the CPM's

1 authority to approve plans that that language be
2 continued. We just wanted to make that clear. I did not
3 put it in my testimony, because I thought it might be more
4 standard for the Commission to include that. But I just
5 want to make it clear that we do want the -- it to be
6 clarified that the CPM has the ability to approve a plan
7 if it makes sense to approve a plan that may not effect
8 construction later. Again, the Palen project is a large
9 project.

10 HEARING OFFICER RENAUD: As I recall from Blythe,
11 that is language that is in various conditions of
12 certification.

13 MR. GALATI: Correct. Actually, not that
14 language. It's the language for the general conditions
15 where it outlines the CPM's authority. And this was sort
16 of a long back and forth of institutional history and
17 memory in both cases where I believe the CPM has always
18 had that authority and we just wanted that clarified. And
19 in both the Blythe final decision and the Genesis final
20 decision, it does clarify that the CPM has that authority
21 at the CPM's sole discretion to be able to approve a plan
22 that may not be completed at every opportunity. Again,
23 obviously the CPM has to agree.

24 HEARING OFFICER RENAUD: Okay. Thank you for
25 that.

1 Staff, you wish to weigh in on that?

2 STAFF COUNSEL DE CARLO: No. We lost that one
3 last time, so I won't engage in that fight again. Thank
4 you.

5 HEARING OFFICER RENAUD: All right. Basin and
6 Range Watch, anything to add to the discussion about the
7 authority of the CPM?

8 MS. CUNNINGHAM: Nothing to add.

9 HEARING OFFICER RENAUD: Okay. Thank you.

10 Going back to project description, my
11 understanding at this point is that there are really two
12 alternative configurations that are set forth. Have the
13 parties agreed on either of those as being the preferred
14 alternative? That's being left for adjudication?

15 MR. GALATI: What we have asked and we believe
16 staff has agreed to -- and unfortunately you'll see it
17 more in the biological conditions when we get to that
18 area, because that is where a lot of the mitigation comes
19 up -- we're asking for the ability of the Commission to
20 allow us to build either Alternative 2 or Alternative 3.

21 And the reason being is one of the reconfigured
22 alternatives -- I believe it's Alternative 3 -- includes
23 some private property that we do not have ownership of.
24 If we did acquire that property, we would like to build
25 the project that way. So the project has been analyzed we

1 believe fully for both configurations and the conditions,
2 especially the biology conditions have been written in a
3 table form so that if Alternative 2 mitigation is
4 identified in Alternative 3 -- we configured Alternative 3
5 configurations identified, but these are the two that we
6 would like the Committee to license.

7 HEARING OFFICER RENAUD: All right. Thank you.
8 Staff, can you add to that at all?

9 STAFF COUNSEL DE CARLO: Staff is agnostic as to
10 which of the alternatives is ultimately built, alternative
11 two or three, as long as it's not the proposed project

12 HEARING OFFICER RENAUD: All right. Thank you.

13 Basin and Range Watch, do you wish the add to the
14 discussion about the number 2 or number 3 alternatives?
15 We're not really doing alternatives in full today, but it
16 has come up with respect to the project description.

17 MS. CUNNINGHAM: No. We're fine.

18 HEARING OFFICER RENAUD: All right. Good. Thank
19 you. Just give me a moment here to make sure I'm not
20 goofing something up.

21 All right. Well, I believe we've accomplished
22 what we needed to accomplish today in terms of entering
23 the evidence on the uncontested topics into the record.
24 Let me just check again for presence of parties in the
25 room or on the phone.

1 CBD? No.

2 Basin and Range Watch, I know you're there.

3 CARE? Anybody from CARE? All right.

4 Basin and Range Watch, do you wish to add
5 anything today before we move into public comment?

6 MS. CUNNINGHAM: Were we going to be covering
7 some of the topics, like worker safety?

8 HEARING OFFICER RENAUD: Well, yes. Those have
9 all been moved into evidence and entered into the record.
10 Do you -- you indicated in your pre-hearing conference
11 statement that you wouldn't be offering any witnesses or
12 testimony or evidence on any of the topics today. Is that
13 still the case?

14 MS. CUNNINGHAM: Yes. We have questions for
15 staff on worker safety.

16 HEARING OFFICER RENAUD: All right. Well, we
17 have staff's worker safety witness available, Dr.
18 Greenberg. So if you'd like to proceed, we'll go ahead
19 with that.

20 MS. CUNNINGHAM: Thank you.

21 HEARING OFFICER RENAUD: First we need to have
22 the witness sworn in.

23 DR. ALVIN GREENBERG,
24 was called as a witness herein and, after having first
25 been duly sworn, was examined and testified as follows:

1 THE WITNESS: I do.

2 THE REPORTER: Please state and spell your name
3 for the record.

4 THE WITNESS: Alvin Greenberg, A-l-v-i-n,
5 G-r-e-e-n-b-e-r-g.

6

7 DIRECT EXAMINATION

8 BY STAFF COUNSEL DE CARLO:

9 Q Dr. Greenberg, did you prepare the testimony entitled
10 "Worker Safety and Fire Protection" in the revised staff
11 assessment, part one, Exhibit 300?

12 A Yes, I did.

13 Q Was the statement of your qualifications included in
14 the revised staff assessment?

15 A Yes, it was.

16 Q Do the opinions contained in the testimony and
17 response represent your best professional judgment?

18 A Yes, it does.

19 Q Can you briefly discuss your analysis and confusion
20 regarding the Palen solar power project's potential to
21 result in impacts in the area of worker safety and fire
22 protection?

23 A Yes, very briefly. And I know the Committee and all
24 the Commissioners have heard and read much testimony on
25 worker safety and fire protection for the other thermal

1 solar power projects. Let me just point out a couple of
2 the differences then that we were faced here with Palen as
3 opposed to the other sites.

4 The applicant is proposing to use LPG or propane
5 gas at this site as opposed to piping and natural gas. So
6 you'll see a specific condition proposed and that would be
7 worker safety 8, which requires them to have a water
8 sprayer deluge system above both of the propane tanks.
9 What this does, of course, is in the event of any risk of
10 fire or fires encroaching upon the propane tanks from any
11 source, on site or off site, will keep the tanks cool and
12 will certainly give time for the Riverside County Fire
13 Department to evacuate the area, perhaps even manage
14 traffic, close down traffic on the I-10, if that's
15 appropriate or not, and assess the situation and either
16 fight the fire or stand back and evacuate. Propane tank
17 fires can be very nasty as you're aware and the potential
18 for explosion exists. But this will mitigate that
19 potential for explosion and any damage to the facility to
20 a below level of significance.

21 The other specific issue is the building and
22 maintenance of a secondary emergency access road. Now,
23 there's no problem in putting another gate at a location
24 at least one quarter mile away from the main gate at the
25 Palen power plant. Its location to I-10 being very close

1 to interstate 10 renders it very easy to put in a
2 secondary access road from the I-10 right-of-way through
3 that I-10 right-of-way fence just north to the closest
4 portion of the Palen site. This would be a 600 to 800
5 foot road. It would be a secondary access point to be
6 used only if the primary access point, the main road or
7 the interchange at I-10 or inception of I-10 happened to
8 be shut down and there be a concurrent emergency
9 necessitating access to the Palen site.

10 Now, we've had some conversations with a
11 recalcitrant Caltrans about putting a gate through the
12 I-10 right-of-way. However, with the assistance of
13 everybody, including the Governor's office and the Chief
14 Deputy Director of Caltrans, we have reached an agreement
15 whereby they are pursuing approval for this access gate
16 with the Federal Highway Administration. We expect we
17 will have that approval.

18 Should that approval not be granted in a timely
19 manner, the road will be built by the applicant and
20 Caltrans fully understands that the Riverside County Fire
21 Department can go ahead and cut the wires and then you
22 will set up the situation such that the gate posts are far
23 enough apart to allow the fire trucks and other emergency
24 vehicles to go through that gate. It's a unique
25 situation. There are differing interpretations as to

1 whether or not we should have to go through all this to
2 put in an emergency access gate. But never the less, we
3 are going through that. We anticipate that there will be
4 no problem in providing the secondary emergency access.

5 These are really the two differences of this site
6 versus the other thermal solar sites. There is one things
7 I'd like to point out. This may be a hazardous materials
8 issue, but the applicant has submitted back in August two
9 lists of hazardous materials proposed for use by the two
10 alternative configurations, Alternative Configuration 2
11 and Alternative Configuration 3. I made a mistake in not
12 putting this in the revised staff assessment. My
13 apologies.

14 I have reviewed this and find this to be just
15 fine. There is a small difference in the amount of
16 thermal heat transfer fluid for the two different
17 configurations.

18 But there's one thing -- it appears as if the
19 applicant may have also made a mistake and they left off
20 LPG or propane from the list. So we need to put that back
21 on. At least I couldn't find it on mine. It was on their
22 original list. And I thank them for providing a very
23 detailed list for both of the alternatives. But I think
24 they left that one off. So I'm sure that's not a problem.
25 We'll put that back on.

1 HEARING OFFICER RENAUD: Okay. Thank you, Dr.
2 Greenberg.

3 Applicant, do you have any questions for the
4 witness?

5 MR. GALATI: No cross-examination from the
6 applicant.

7 HEARING OFFICER RENAUD: Basin and Range Watch,
8 questions for Dr. Greenberg?

9 MS. CUNNINGHAM: Yeah.

10

11 CROSS-EXAMINATION

12 BY MS. CUNNINGHAM:

13 Q Thank you, Dr. Greenberg. That actually answered
14 several of our questions. And I just had a couple more.
15 It says in your revised staff assessment on page 3.14-1
16 that the applicant will provide a public construction
17 safety and health program and a project operations and
18 maintenance safety and health program, and we noticed a
19 very large amount of therminol that will be used on this
20 project does pose a hazard. And our question is when will
21 these plans be available for public review?

22 A That becomes a compliance matter and the compliance
23 unit usually has them posted on the website. In other
24 words, as soon as the applicant files them, they're
25 usually posted on the CEC website under compliance

1 matters. So those will be available for review at that
2 time.

3 Q Okay. Thank you.

4 I just have one other question about the distance
5 from the project boundary of, say, a parcel of private
6 property that's a house or a residence. Have you been
7 able to determine a safety distance yet? I know you've
8 been reviewing quite a lot of these projects now. Is
9 there a safe distance where a house should be from a solar
10 thermal project using therminol?

11 A The direct answer is no, because we take each project
12 specifically and look at the specific circumstances. If
13 you look at the Abengoa project, for example, I assessed
14 the distance of an existing home to a solar thermal site
15 and in that case, that home has -- it would be -- is
16 located where the project will be on two sides of the
17 home. So it looked at that particular distance and
18 determined that house would indeed be in a safe enough
19 location that the thermal radiation from a thermal fire
20 would not impact on that house.

21 Now, in this specific case, there is no home.
22 There are no structures nearby the Palen site. And so I
23 could look and give you a general distance which is listed
24 in the hazardous material section. The applicant did an
25 assessment not only of the flux of thermal radiation from

1 the fire but also blast effect from their propane tank.
2 So each site is really assessed based on the specifics of
3 each site. So I can't give you one number fits all.

4 MS. CUNNINGHAM: Okay. There's very helpful.
5 Thank you. No more questions.

6 HEARING OFFICER RENAUD: All right. Thank you,
7 Ms. Cunningham.

8 Did you have any other topics? I noticed in your
9 pre-hearing conference statement you did indicate you
10 might have some questions on visual resources or cultural
11 resources. Do you have questions today on those?

12 MS. CUNNINGHAM: No. We have no more questions
13 on any topic today.

14 HEARING OFFICER RENAUD: Very good. Thank you.

15 And let me just check once again. Have we been
16 joined by any representative of CARE or CBD or CURE? All
17 right. Very good.

18 Mr. Galati?

19 MR. GALATI: May I address the legal issue that
20 was raised during that cross-examination? I don't need to
21 ask any questions of Dr. Greenberg, but I'd like to
22 address a legal issue to the Committee

23 HEARING OFFICER RENAUD: Please.

24 MR. GALATI: The concept of compliance and having
25 every plan that the compliance project manager reviews be

1 open and available for public review goes far beyond the
2 necessary Commission review process under CEQA. What the
3 Commission has done and what they've done for a very long
4 time and this is just starting to raise its head recently,
5 because I have never worked on a project where an
6 intervenor or member of the public were complaining or
7 insisting on reviewing the compliance plan. What we
8 normally do during workshops and testimony is make sure
9 that the condition that requires the plan has the
10 appropriate performance standards and the issue addressed
11 and specific requirements that be addressed in the plan
12 that what comes out of the plan is how do you actually
13 achieve those objectives. And we believe that's an
14 appropriate way to mitigate under CEQA. It is supported
15 by the case law and the statutory guidance and the
16 guidelines.

17 And I just wanted to make sure the entire
18 development of renewable energy will come to a screeching
19 halt if the 57 to 100 some odd plans that have to be
20 submitted are posted on the website and submitted to
21 public review. And this is starting to be a trend. I'm
22 seeing it. That intervenors or something for that in
23 another case. So I just wanted to from a legal
24 perspective, since we aren't going to be briefing this, is
25 that I believe there is no violation of CEQA in relying on

1 a condition that requires a plan that meets very specific
2 performance criteria.

3 HEARING OFFICER RENAUD: All right. Thank you
4 for that comment. Let's see.

5 Applicant, do you wish to address that or
6 anything else? I am sorry. Staff.

7 STAFF COUNSEL DE CARLO: No. It's not something
8 the Committee would want briefed or not something that we
9 can --

10 HEARING OFFICER RENAUD: No.

11 Basin and Range Watch, Ms. Cunningham, would you
12 comment on that?

13 MS. CUNNINGHAM: Yes. Just a brief comment that
14 we do feel that is a problem with so many portions of the
15 environmental review process are being deferred until
16 after approval and we think this is a problem on many
17 projects and I guess we'd just like to file our complaint
18 with it. Thank you.

19 HEARING OFFICER RENAUD: All right. Thank you.

20 I think we're done then with the evidentiary
21 portion of this proceeding. Before we proceed to public
22 comment, let me ask if we have any representatives of
23 government agencies or government officials present who'd
24 like to introduce themselves.

25 MR. EVENSON: Dale Evenson, Riverside County Fire

1 Department.

2 HEARING OFFICER RENAUD: Thank you for joining
3 us. Mr. Everson, do you wish to address the Committee in
4 any way? No.

5 I'll ask if there's any public comment. At every
6 hearing that the Commission holds, we including a public
7 comment period allowing members of the public an
8 opportunity to address the Commissioners. So let me ask
9 first if anyone in the room wishes to provide any public
10 comment today? I don't see anybody.

11 Is there anybody on the phone who wishes to make
12 a public comment today? Apparently not.

13 All right. Does any party wish to add anything
14 further before we conclude for the day?

15 MR. GALATI: None from the applicant. Thank you.

16 HEARING OFFICER RENAUD: All right. None from
17 staff. Basin and Range Watch? No.

18 All right then. Thank you very much. We will
19 proceed with preparation of the Presiding Member's
20 Proposed Decision. Obviously, we will not be holding a
21 hearing tomorrow, and we will see you all here on October
22 27th. Thank you very much. This meeting is concluded.

23 (Thereupon the hearing concluded at 10:43 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 18th day of October, 2010.

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23 TIFFANY C. KRAFT, CSR, RPR
24 Certified Shorthand Reporter
25 License No. 12277